

Docket No. 742421-81
Serial No. 10/668,962
Page 1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:)	
Mitsuo HITOMI et al.)	Group Art Unit: 3747
Serial No. 10/668,962)	Examiner: Jason Benton
Filed: September 24, 2003)	Confirmation No. 1497
For: CONTROL UNIT FOR SPARK- IGNITION TYPE ENGINE)	Date: January 4, 2005
)	

CERTIFICATE OF MAILING OR TRANSMISSION
[37 CFR 1.8(a)]

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage for First Class Mail in an envelope addressed to: Mail Stop _____, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, or being facsimile transmitted to the USPTO at _____, on January 4, 2005.

Signature: _____
Name: _____

REQUEST FOR RECONSIDERATION

Mail Stop Non Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated October 5, 2004, it is respectfully requested that the rejection of record be reconsidered and withdrawn by the Examiner. Claims 1-5 are presently pending in the instant application.

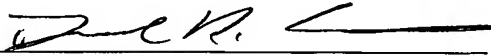
With reference now to the Official Action and particularly page 2 thereof, claims 1-5 have been provisionally rejected under the judicially created Doctrine of Obviousness Type of Double Patenting as being unpatentable over claim 1 of co-pending application Serial Number 10/609,668 in view of U.S. Patent No. 6,178,933 issued to Lavy. It is respectfully submitted that with the concurrent filing of Applicants' Terminal Disclaimer to obviate a

provisional double patenting rejection over a pending application, the rejection of claims 1-5 as being unpatentable over claim 1 of co-pending application serial number 10/609,668 in view of Lavy has been overcome.

Specifically, filed concurrently herewith is a Terminal Disclaimer to obviate a provisional double patenting rejection over a pending application filed on behalf of the owner, Mazda Motor Corporation. Therein, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration of the full statutory term of any patent granted on pending reference Application Number 609,668 filed on July 1, 2003, as such term as defined in 35 U.S.C. §154 and 171, and as the term of any patent granted on said referenced application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending referenced application. The owner further agrees that any patent so granted on the instant application shall be enforceful only for an and during such period that it and any patent granted on the reference application are commonly owned. Accordingly, in view of the filing of the attached Terminal Disclaimer, it is respectfully submitted that the rejection of claims 1-5 under the judicially created Doctrine of Obviousness-Type Double Patenting as being unpatentable over claim 1 of co-pending application number 10/609,668 in view of Lavy has been overcome and the present application is now in proper condition for allowance.

Should the Examiner believe a conference would be of benefit in expediting the prosecution of the instant application, he is hereby invited to telephone counsel to arrange such a conference.

Respectfully submitted,



Donald R. Studebaker
Reg. No. 32,815

Nixon Peabody LLP
401 9th Street N.W.
Suite 900
Washington, D. C. 20004
(202) 585-8000